

(“DTPA”) by, among other things, underpaying Plaintiff’s claim for storm-related damages.

On April 4, 2016, Plaintiff filed its Original Petition in the 14th Judicial District of Dallas County, Texas against Defendant. Defendant was served with a citation and a copy of Plaintiff’s Original Petition on or about April 13, 2016 through its registered agent for service of process. This Notice of Removal is being filed within thirty (30) days of service of the Petition, and is thus timely filed under 28 U.S.C. § 1446(b). As explained below, removal is proper in this case because there is complete diversity of citizenship between the parties, and it is apparent from the face of Plaintiff’s Original Petition that the amount in controversy exceeds \$75,000.00.

II.

BASIS FOR REMOVAL

A. DIVERSITY OF CITIZENSHIP

Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. § 1332(a). Plaintiff has alleged in its Original Petition that it is a resident of Los Angeles, California. *See* Plaintiff’s Original Petition at ¶3.

Peerless is a company organized under the laws of the State of Illinois with its principal place of business in Boston, Massachusetts. For diversity purposes, Peerless is a citizen of both Illinois and Massachusetts.

B. AMOUNT IN CONTROVERSY

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff’s complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff’s

Original Petition that its claims exceed \$75,000.00, as Plaintiff alleges it “seeks in excess of \$100,000.00.” *See* Plaintiff’s Original Petition, ¶ 2.

This is a civil action brought in state court and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). Plaintiff’s citizenship is diverse from Peerless. Further, as alleged in its Petition, Plaintiff seeks to recover in excess of \$100,000.00 from Defendant. Therefore, the amount in controversy in this case exceeds \$75,000.00. Therefore, removal of this action is proper under 28 U.S.C. § 1441(a).

CONSENT TO REMOVAL UNNECESSARY

Peerless is the only defendant named in Plaintiff’s Petition, thus, no additional consent is needed for removal.

III.

COMPLIANCE PROCEDURAL REQUIREMENTS

As required by Local Rule 8.1(a), filed concurrently with this Notice of Removal is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with LR 3.1(c). Additionally, the following exhibits are attached:

- **EXHIBIT A** Index of all documents filed in state court;
- **EXHIBIT B** Register of Actions in the state court action;
- **EXHIBIT C-1-C-3** A copy of each document filed in the state court action.

Pursuant to Section 28 U.S.C. §1446(d), Defendant will give written notice of filing of this Notice of Removal to all adverse parties promptly after the filing of same.

Pursuant to 28 U.S.C. §1446(d), Defendant will file a true and correct copy of this Notice of Removal with the District Clerk, 14th Judicial District, Dallas County, Texas promptly after filing of same.

IV.
REQUEST FOR RELIEF

Based on the foregoing, Defendant Peerless Indemnity Insurance Company respectfully requests that the above-captioned action now pending in the 14th Judicial District Court, Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

/s/ Colin Batchelor

MARK D. TILLMAN
State Bar No. 00794742
COLIN BATCHELOR
State Bar No. 24043545

TILLMAN BATCHELOR
1320 Greenway Drive, Suite 830
Irving, Texas 75038
Telephone: (214) 492-5720
Facsimile: (214) 492-5721
E-mail: mark.tillman@tb-llp.com
E-mail: colin.batchelor@tb-llp.com

**ATTORNEYS FOR DEFENDANT
PEERLESS INDEMNITY INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of **Defendant's Notice of Removal** has been forwarded to Plaintiff's counsel of record, as identified below, via electronic means and/or facsimile, on the 12th day of May, 2016, in accordance with the Federal Rules of Civil Procedure.

ATTORNEYS FOR PLAINTIFF

Patrick Connell McGinnis

Phillip N. Sanov

The Merlin Law Group

Three Riverway, Suite 701

Houston, Texas 77056

Telephone: (713) 626-8880

Facsimile: (713) 626-8881

pmcginnis@MerlinLawGroup.com

psanov@MerlinLawGroup.com

/s/ Colin Batchelor

COLIN BATCHELOR